

REMARKS

The remainder of this Reply is set forth under appropriate subheadings for the convenience of the Examiner.

Amendments to the Claims

Claims 30 and 40 have been amended to more clearly define the claimed invention. As amended, Claim 30 recites a method of load testing a software application comprising producing load testing scripts and emulating a user using the load testing scripts. As amended, Claim 40 recites a computer product that produces load testing scripts used for emulating a user in load testing a software application. Also, as amended, Claims 30 and 40 each recite generating “a load testing script from the captured application calls according to the timing information of the captured calls, such that the user is emulated.” Support for these amendments can be found in Claims 30 and 40 themselves, as originally filed, and in the specification, for example, on page 2, lines 19-24, page 3, lines 20-30, page 7, lines 26-29, and page 12, line 29 through page 13, line 7.

Rejection of Claims 30-46 under 35 U.S.C. § 103(a)

Claims 30-46 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rodrigues, *et al.* in view of Halviatti, *et al.* (U.S. Patent No. 5,790,117, hereinafter “Halviatti, *et al.*”)

A. Summary of the Rejection

The Examiner stated that Rodrigues, *et al.* failed to explicitly disclose the step of generating a script from the captured application. To remedy this deficiency, the Examiner cited a secondary reference, Halviatti, *et al.* The Examiner further stated that it would have been obvious to a person of ordinary skill in the art to modify an automated software testing of Rodrigues, *et al.* by including the limitation of generating a script as taught by Halviatti, *et al.* Applicants respectfully disagree for the reasons set forth below.

B. Applicant's Invention

As amended, independent Claim 30 is directed to a method of **load testing** a software application comprising producing **load testing scripts** and **emulating a user** using the load testing scripts. The load testing scripts are produced by i) capturing calls on a computer system to emulate the user; ii) recording timing information of the captured calls; and iii) generating **a load testing script** from the captured application calls according to the timing information of the captured calls, **such that the user is emulated**.

Independent Claim 40, as amended, is directed to a computer program product that produces **load testing scripts** used for **emulating a user** in load testing a software application. The computer program comprises computer code that generates **a load testing script** from the captured application calls according to the timing information of the captured calls, **such that the user is emulated**.

C. Applicants' Invention Claimed in Claims 30-46 Are Not Obvious in view of the Cited References.

Applicants' invention of independent Claims 30 and 40, as amended, is directed to **load testing** for analyzing the effect of many users on a system. That is, Applicants' invention provides a method and a computer program product, for predicting and measuring an application's behavior and performance under the stress of a multiple user load by emulating multiple users accessing the application at the same time.

In contrast to Applicants' invention directed to load testing, as discussed in the previously-filed Reply, Rodrigues, *et al.* do **not** disclose or suggest **load testing**. Not only is there no disclosure or suggestion of a load testing in Rodrigues, *et al.*, but also there is **no** disclosure or suggestion in Rodrigues, *et al.* of **load testing based on load testing scripts**. Rather, Rodrigues, *et al.* disclose a test tool integrated into the application program which is **not based on scripts**. Accordingly, Rodrigues, *et al.* fail to disclose generating a load testing script from the captured calls, such that the user is emulated. Also, Rodrigues, *et al.* fail to disclose **emulating a user** using the load testing scripts.

Halviatti, *et al.* disclose a Computer-Based Training system (CBT) that includes one or more Application Translation Units, a Message Engine and a Script Engine. The Script Engine matches an incoming message from the Message Engine with reserved words of a script of the

Script Engine, and an appropriate action based upon the reserved word within the script is then effected. However, as with Rodrigues, *et al.*, Halviatti, *et al.* do not disclose or suggest a load testing. There also is no disclosure or suggestion of generating a load testing script from the captured calls, such that the user is emulated. There also is no disclosure or suggestion of emulating a user using the load testing scripts. Therefore, the secondary reference, Halviatti, *et al.*, does not remedy the deficiencies of Rodrigues, *et al.*

Moreover, Rodrigues, *et al.* assert that a script-oriented test tool 304 in FIG. 3 provides unsatisfactory results, e.g., only being capable of testing those functions made externally visible by the application program 306 (see, for example, Column 1, line 52 through Column 2, line 43 and Column 7, lines 44-67). As a solution of this script-oriented test tool, Rodrigues, *et al.* propose a test tool integrated into the application program, which is not based on scripts. Therefore, Rodrigues, *et al.* **teach away** from employing scripts to test application programs, not to mention load testing scripts. Therefore, one skilled in the art would not have modified the automated software testing of Rodrigues, *et al.* by including the limitation of generating a script, as asserted by the Examiner.

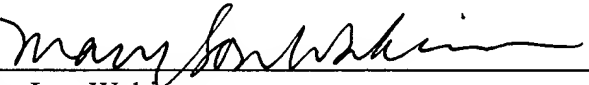
For the reasons discussed above, the subject matter of independent Claims 30 and 40, as amended, is not obvious in view of Rodrigues, *et al.* and Halviatti, *et al.*, taken either separately or in combination. Claims 31-39 and 41-46 are dependent from independent Claims 30 and 40, respectively. Thus, these claims also are not obvious in view of Rodrigues, *et al.* and Halviatti, *et al.*, taken either separately or in combination. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection. Also, Applicants are in the process of obtaining information and data for a Declaration from the inventors under 37 C.F.R. 1.131 to antedate Rodrigues, *et al.* as an alternative response to the Examiner's rejection.

CONCLUSION

In view of the above amendments and remarks, it is believed that all pending claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 
Mary Lou Wakimura
Registration No. 31,804
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133

Dated: 3/24/05